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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH: NEW DELHI

O.A.NO.2422/94

New Delhi, the 31st March, 1995

Hon'ble Shri J.P. Sharma, Member(J)

Hon'ble Shri B.K. Singh, Member(A)

Shri Ram Kishan,
s/o Shri Desh Raj,
working as Area Volunteer in U.B.S.
Govt. of N.C.T. of Delhi,
Department of Urban Development,
Vikas Bhavan,
New Delhi

r/o H.No.116,
Sector-8, R.K. Puram,
New Delhi.

... Applicant

By Advocate: Shri S.S. Tiwari

Vs.

1. Govt. of N.C.T. of Delhi
through its
Chief Secretary,
5, Shammath Marg,
Delhi.

2. The Labour Commissioner,
Govt. of N.C.T. of Delhi,
Labour Department, Delhi,
15 Rajpur Road,
Delhi.

... Respondents

By Advocate: Shri Raj Singh

ORDER

Hon'ble Shri J.P. Sharma, Member(J)

The applicant is an Area Volunteer working under the Urban Development of Delhi Administration. Earlier O.A. No.517/93 was filed by U.B.S. Employees and O.A.No.3400/92, O.A.No.425/93 and O.A.No.930/92 were filed by Area Volunteers which was decided by the Principal Bench by the order dated 21.9.93. In the O.A. the relief prayed for (O.A.No.517/93) that the Area Volunteers can be absorbed in the Planning Department and a direction be issued to the respondents to do the same without making them to compete with the outsiders

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in a written test. The final direction given in that judgement is as follows:

"In view of the foregoing discussion, we hold that the process of absorption of Area Volunteers in different departments of Delhi Administration has to be expedited and the progress has to be monitored regularly. The applications are, therefore, disposed of with the directions to the respondents to take all steps for absorption of the Area Volunteers within a period of six months from the date of receipt a copy of this judgement. The services of the Area Volunteers shall continue till all of them have been absorbed or till 31.3.1994 whichever is later. At the end of this period, it will be open to the respondents to discontinue the engagement though a list of Area Volunteers still remaining to be absorbed may be maintained for absorption against future vacancies. As regards the relief sought in O.A. No.517/93, we direct the respondents to strictly follow the instructions contained in circular No.F.3/11/92-services-II dated 1.12.1993 i.e. only after specified groups of employees including the volunteers of Urban Basic Services have been absorbed, any recruitment from outside will be resorted to."

2. The grievance of the present applicant is that the respondents are not absorbing the applicant as Inspecting Officer and they have asked the Employment Exchange to sponsor fresh candidates. The applicant was also sponsored by the Employment Exchange but he has not been regularised as Inspecting Officer in terms of the decision dated 22.9.93 in O.A.No.3400/92. The relief prayed for in this application by the applicant is that a direction

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be issued to the respondents to consider absorbing the applicant as Inspecting Officer before considering/recruiting fresh candidates from Employment Exchange and a further direction to give the extension of the benefit of the judgement in Q.A.No.517/93 and follow the circular dated 1.2.1993.

3. The circular dated 1.2.93 is enclosed with the application as Annexure 'B' and it is with respect to economy in Govt. expenditure of direct recruitment. However, this circular made certain exception that the ban on fresh recruitment was not applied in the post reserved for SC/ST and appointment on compassionate grounds. It also provided that absorption of surplus staff of DSIDC and DRDA can be done..If such staff is not available, the Area Volunteers of Urban Basic Services (U.B.S.) may be considered for filling up Grade-III and IV posts or equivalent if found suitable. For the Area Volunteers, there will be no relaxation in qualifications or experience but relaxation in age could be considered in individual cases if they are found otherwise suitable for the jobs. It was also provided that the retrenched employees of 1991 census may also be considered in accordance with the instructions who were employed through Employment Exchange as per instructions issued by circular dated 18.1.83.

4. The respondents on notice contested this application and stated that the Area Volunteers can be absorbed by virtue of the circular dated 1.2.93(referred to above) to the post of Grade-III and IV (DASS) only. As such no Area Volunteers can be absorbed to the post of Inspecting Officer which is a Group 'C' Ex cadre post in the pay scale

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of Rs.1640-2900. The applicant also does not fulfill the condition of minimum qualification and experience so he is not entitled and ^{not} found fit for consideration for the post of Inspecting Officer. As per judgement in O.A.No.3400/92, the direction was to absorb the Area Volunteers only on Grade III and IV of the service and not Inspecting Officer which is a Group 'C' Ex-cadre post. The post of Inspecting Officer is a technical post and require special qualification as per Recruitment Rules. The department initiated action to fill up the post of Inspecting Officer as per prevailing Recruitment Rules and after taking into consideration the Govt. of India instructions the application of the applicant was also considered as per instructions of the circular dated 1.2.93 but the applicant does not have the prescribed experience of 2 years in addition to his qualification as required under the Recruitment Rules and was rejected on merits. The applicant was also interviewed after having been sponsored by Employment Exchange and was given a fair chance to compete for selection to the post of Inspecting Officer. As per Recruitment Rules for the post of Inspecting Officer, the essential qualification is Bachelor's degree in any discipline from a recognised university with a degree in Labour Law/ Personnel Management/Social Work from any recognised university or diploma in Labour law/Personnel Management/Social Work from any recognised University with 2 years experience in any responsible capacity in any Central/State Govt. office. The desired qualification is degree in Law or higher qualifications in the field of Labour/Personnel Management/Social work and experience in matters relating to Labour Law

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5. The applicant has also filed the rejoinder with the counter filed by the respondents. He has reiterated the various averments made in the O.A. It is highlighted that the Area Volunteers may be absorbed in the post of Inspecting Officer as Group 'C' and Grade III posts are one and the same irrespective of whether it is an ex-cadre post or not.

6. We have heard the learned counsel of the parties at length and perused the records. The judgement delivered in bunch of O.As. by the order dated 21.9.93 has been referred to above and the operative portion of the same goes to show that the services of Area Volunteers shall continue till 31st March, 1994 or till they are absorbed whichever is later. Since the applicant has not been absorbed but he is continuing in service. The other direction has been that the instructions contained in the circular dated 1.02.93 be strictly complied with. The respondents have taken the stand that the recruitment of Inspecting Officer is not covered by the aforesaid judgement. The Inspecting Officers belong to ex-cadre post of Group 'C' or Grade-III and the scale of pay is also Rs.1640-2900 and the post is also to be filled up by direct recruitment. The scale of Grade III of Group 'C' is also Rs.1200-2040. The applicant is working on daily wages at the rate of Rs.82.40 paise per day w.e.f. May, 1990. The applicant in the rejoinder has not disputed the fact that the post of Inspecting Officer is ex-cadre post. In view of this, it is not required to go further to find out whether it is an ex-cadre post as in the Recruitment Rules the strength of Inspecting Officer is shown as 14. When a fact is not disputed and there is a consensus on a particular fact, it has to be taken for granted

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that the post of Inspecting Officer in the scale of Rs. 1640-2900 is an ex-cadre post. The judgement, therefore, in bunch of cases referred to above does not cover the post of Inspecting Officer.

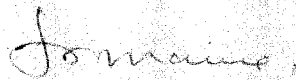
7. The applicant has also been sponsored by Employment Exchange and has since been interviewed and was also not found fit by the Selection Body. The respondents have taken the stand that the applicant has been rejected on merit. This fact is also not denied by the applicant in the rejoinder except that the applicant wanted the benefit of the judgement of the bunch of cases referred to above but in the circumstances of the case as held earlier above, the benefit was not visualised in the grade of Rs. 1640-2900 which is also a Group 'C' post. That post is by direct recruitment. If there is a question of regularising the Area Volunteers in a Group 'C' post, it can be at the lowest stage of the Group 'C' post and not in the higher scale of Group 'C' post. The applicant has not sought clarification of that decision by filing a Review application and nor has gone for contempt against the non-compliance of the ^{aforsaid} judgement. The stand of the respondents therefore cannot be disbelieved that Area Volunteers cannot be regularised on the post of Inspecting Officer in the grade of Rs. 1640-2900.

8. Regarding the consideration of the applicant for Group 'C' post, during the course of hearing a notice dated 2.1.95 has been placed before us. Only Group 'C' Non-Gazetted, Non-Ministerial post has been advertised to be filled up and the recruitment is restricted amongst serving Area Volunteers with U.B.S., Govt. of Delhi. There being no relaxation in the Recruitment Rules except with respect to age. So it appears that the respondents have

now circulated a notice for filling the post from Area Volunteers with U.B.S. and the applicant therefore should not have any grievance on that account. He will be considered alongwith others as per Recruitment Rules and need be by relaxation of age and will be absorbed as per the decision in the earlier O.A. by the order dated 21.9.93.

9. The application is, therefore, disposed of with the direction to consider the applicant for Group 'C' post in the cadre in accordance with the decision of O.A. 517/93 and the circular dated 1.2.93 strictly according to rules. Cost on parties.


(B.K. SINGH)
MEMBER(A)


(J.P. SHARMA)
MEMBER(J)

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